

REMARKS

Claims 1-16 and 21-24 have been cancelled without prejudice to pursue in a later filed continuation, continuation in part, or divisional application. Claims 25-34 have been added with this amendment. No new matter has been added.

Claims 17-20 stand rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Yuyama et al (U.S. Patent No. 6,324,253) in view of Tauman (EP 0 996 293). Applicants respectfully traverse the Examiner's rejection of the claims for the following reasons.

The Examiner principally relies on Yuyama to support the rejection of claims 17-20, stating that "Yuyama et al discloses a push broom scanning spectrometer for automatically inspecting package [sic] tablets . . ." See Office Action at p. 2. However, nowhere in Yuyama is a spectrometer, or the principles of spectrometer operation, discussed or even mentioned. Rather, Yuyama is specifically directed toward x-ray inspection techniques to determine whether items, for example, tablets, are present in a package such as, for example, a pharmaceutical blister pack. The embodiments of Yuyama *only* disclose a device that is capable, through the use of x-ray imaging, of detecting 1) the presence or absence of an item, or 2) the color and/or dimensional data of the item. Notably, each and every embodiment of Yuyama assumes that the actual formulation or chemical composition of the item is predetermined. See e.g. Yuyama at Col. 12, lines 29-38. Yuyama does not disclose the use of spectroscopy or the collection of spectral image data to verify package contents or item location. In contrast to Yuyama, claims 17-20 as presented in the application, recite the use of a spectroscopy based system to simultaneously acquire contiguous spectral bands corresponding to the package being inspected. Yuyama only discloses location and object detection via shape recognition based on an x-ray

image, much like a typical x-ray device can be used to determine the presence and/or shape of bones hidden within body tissue.

Indeed, in the office action, the Examiner acknowledges these distinctions by stating that Yuyama does not disclose “the image pixel line comprises a plurality of contiguous spectral bands.” Office Action at p. 3. This is true because the use of x-ray technology is not analogous to spectroscopy. X-ray detection means, such as those disclosed in Yuyama, cannot be used to detect a spectral signature.

Similarly, Taubman only discloses an *algorithm* for creating better color images from a limited set of spectral bands (i.e. red, green, and blue) to correct for the limitations in an optical system and undesirable illumination conditions. In no way does Taubman mention or imply the use of a spectrometer, nor does Taubman disclose the acquisition of contiguous spectral bands.

Thus, Yuama, either alone or in combination with Taubman, does not disclose the use of a spectrometer, let alone a push-broom spectrometer, as recited in claims 17-20.

Claims 25-34, which have been added with this amendment are similarly directed toward the use of a spectrometer based system to acquire contiguous spectral bands corresponding to a package of items. Thus, Applicants respectfully submit that all currently pending claims are in condition for allowance.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that no further impediments exist to the allowance of this application and, therefore, solicit an indication of allowability. However, the Examiner is requested to call the undersigned if any question or comments arise.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 03-3117.

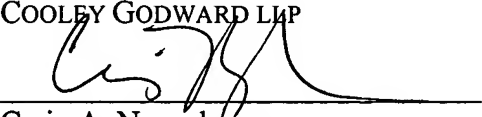
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Respectfully submitted,

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